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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,836	11/30/2001	Adolf Proidl	AT 000068	3541

24737 7590 08/19/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
SHIBRU, HELEN	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/19/2008	PAPER

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/015,836
Filing Date: November 30, 2001
Appellant(s): PROIDL ET AL.

Thomas J. Onka
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/02/2008 appealing from the Office action mailed 01/02/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,956,455	Hennig	10-1999
5,963,264	Jackson	10-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennig (US Pat. No. 5,956,455) in view of Jackson (US Pat. No. 5,963,264).

Regarding claim Regarding claim 1, Hennig discloses a recording arrangement for the error-tolerant recording of an information signal (FS) of an information broadcast programmed for recording and identified by a broadcast identification (VPS-PI) and a broadcast start time (SBZ-PI) (See col. 6 line 66-col. 7, errors are corrected), having

receiving means (see tuner 100 in fig. 1) for receiving the information signal in which information broadcasts and associated broadcast identifications can be transmitted, and having recording means (VCR in fig. 1) for recording the received information signal on a record carrier in a recording mode of the recording arrangement (see figure 1 a simplified block diagram of a VCR, which includes tuner 100 for selecting a particular television signal from a plurality of television signals received by an antenna 105. The VCR also includes a microcomputer 110 that receives data entered by a user from the remote control unit or from the keypad. Upon pressing the appropriate button, the necessary VPS program and their identification information is transferred to the VCR. See also figure 6 and col. 3 lines 9-22), and having recording control means for evaluating both the broadcast identification of the programmed information broadcast being detected in the information signal and a recording start time of the programmed

information broadcast is reached, which recording start time is reached a lead time interval before the broadcast start time of the programmed information broadcast (The prior art Figure 4a shows that the user instructs the VCR to program itself with the data necessary to record the particular television show on a particular day. The VCR also comprises a controller for storing schedule data. The schedule data includes time code data indicative of starting time of a particular date and a television program identification code. See col. 4 lines 39-61 and claims 1 and 2. See also paragraph 2 above. See also col. 4 lines 57-61 where it teaches that the actual starting times may be changed if the previously scheduled program was a sporting event which ran over time).

Henning further discloses automatically changes said identifying signal of a particular television program which said schedule indicates as the currently running television program (see claim 1, i.e. the recording is based on the current schedule). Henning discloses, in a conventional VCR, the editor in one particular example inadvertently typed an incorrect VPS time code (col. 4 line 39-col. 5 line 11). When the editor noticed the error, he/she changed the time to the correct VPS time of 2050. Because the program memory in the VCR still contains the erroneous VPS time code data, nothing will be recorded. However according to Henning invention, if controller 150 does not find the VPS code in the Current VPT page, controller 150 concludes that the received code is incorrect and replaces it with the VPS code **according to the schedule (see col. 6 line 12-col. 7 line 33)**.

In the same field of endeavor Jackson discloses the recording process begins when the programming selection is actually aired. Jackson further discloses real-time

schedule changes to occur for both starting time and stopping time, and ensure the entire program will be recorded (see col. 5 line 51-col. 6 line 20 and fig. 2). Therefore in light of the teaching in Jackson, it would have been obvious to record a program at the actual recording start time in order to record the selected event entirely.

Regarding claim 2, Hennig discloses the end of the programmed information broadcast is defined by a broadcast end time and in which the recording control means are adapted to deactivate the recording mode when both the absence of the broadcast identification of the programmed information broadcast is detected and a recording end time of the programmed information broadcast is reached, which recording end time is reached a trailing time interval after the broadcast end time of the programmed information broadcast (see col. 4-6 if the VPS code is incorrect the recording is delayed from its originally scheduled time otherwise the recording ends on the particular schedule ending time. See also claim 1 in Jackson).

Regarding claim 3, Hennig discloses which marking means are provided, which marking means are adapted, in the recording mode of the recording arrangement, to store marking information defining the current recording position on the record carder when the broadcast identification received in the information signal changes (see col. 5 line 56-col. 6 line 11 and figure 9).

Regarding claim 4, Hennig discloses offline analysis means are provided, which analysis means are adapted, after deactivation of the recording mode, to analyze the recorded information signal and to mark information signal portions of the recorded information signal which have common characteristics with marking information, the

characteristics to be analyzed being, for example, a picture frequency, velocity information of objects of the picture content, text information of the picture content, color information of the picture content or sound information of the recorded information signal (see figures 6, 10 and 11).

Regarding claim 5, Hennig discloses the offline analysis means are adapted to define stored marking information as a reproduction start position and/or to define stored marking information as a reproduction end position of the information broadcast recorded in the recording means (see col. 4 line 5-23 and col. 5 lines 46-53).

Regarding claim 6, Hennig discloses the recording control means are adapted to activate the recording mode when the broadcast identification of the information broadcast transmitted before the programmed information broadcast is no longer detected in the sequence of broadcast identifications included in the received information signal (see figures 7-9).

Regarding claim 7, Hennig discloses the recording control means are adapted to deactivate the recording mode when the broadcast identification of the information broadcast transmitted after the programmed information broadcast is already detected in the sequence of broadcast identifications included in the received information signal (See cols. 5 and 6).

Regarding claim 8, Hennig discloses receiving means for receiving a further information signal are provided, in which further information signal further programmable information broadcasts and associated broadcast identifications can be transmitted (see figure 6).

Regarding claim 9, Hennig discloses recording scheduler means are provided by which an information broadcast to be recorded can be programmed and which are adapted to evaluate electronic program information received by the receiving means, which electronic program information includes both broadcast start times and the expected sequence of broadcast identifications of the information broadcasts to be expected in the information signal to be recorded (see claims 1 and 2).

Regarding claim 10, Hennig discloses the record carrier takes the form of a hard disk (see figure 1).

Regarding claim 11, Hennig discloses the recording control means include VPS decoder means for decoding a VPS code which forms the broadcast identification (see figure 1 and col. 3).

Claims 12 and 13 are rejected for the same reason as discussed in claims 1 and 2 respectively above.

(10) Response to Argument

Appellant states on page 8 and 11 of the appeal brief, "Neither Hennig nor Jackson, either singly or in combination, teaches the use of a recording start time defined as a lead time interval before the broadcast start time of the programmed information broadcast. Further, the combination of Hennig and Jackson fails to disclose the limitation of activating the recording mode as a condition such a determined start time, as recited in claim 1."

In response the Examiner respectfully disagrees. First of all the present application specification or claim do not specifically disclose or recite 'the use of a

recording start time **defined** as a lead time interval before the broadcast start time of the programmed information broadcast (emphasis added).' the present application discloses "recording start time is **reached** a lead time interval before the broadcast start time of the programmed information broadcast." The two statements are different. Furthermore the present application discloses how to calculate or find the recording start time. See below.

ABZ = SBZ-PI-VZ, where SBZ-PI is the expected broadcast start time, VZ is lead time, and ABZ is recording start time.

In paragraphs 0038-0039 the present application PG Pub Appellant discloses the user of the hard disk recorder wishes to program the television broadcast entitled "SPORTS." In paragraph 0039, the present application discloses VZ is 15 minutes, i.e. recording start time is 15 minutes before the expected broadcast start time. The program is recorded 15 minutes before the expected broadcast time. The expected broadcast time according to paragraph 0039 is 15:30. Therefore recording start time (ABZ) is 15:15.

Therefore neither the claim nor the specification of the present application recite or disclose 'the use of a recording start time **defined** as a lead time interval before the broadcast start time of the programmed information broadcast.'

Second, Hennig discloses by use of VPS, incorrect recording of a desired television program, caused either by time-shifted television programs or by errors made by manual keying in of the data such as start time, stopping time, date and program source is greatly eliminated (see col. 1 line 65-col. 2 line 2). Hennig further discloses

though VPS and VPT system are used, an error can still be occurred (see last paragraph of Hennig background of the invention). In Hennig invention, in operation of a fault-tolerant VCR, the desired TV program is guaranteed to be recorded. Hennig discloses preprogrammed data sets should be compared continuously with the data on the latest TV program schedule pages. If differences between the two are detected, the preprogrammed data are automatically adapted to the newer data 9see col. 2 lines 22-48). See also col. 5 line 12-col. 2 line 33 where Hennig discloses recording the desired program when the program is aired. Hennig further recites in the claim that storing schedule data wherein the schedule data includes time code data indicating starting time of a program on a particular date and time. Hennig further recites automatically changing identifying signal of a particular TV program which the schedule indicates as currently running TV program. Hennig recite the VCR selects a particular television signal having an identifying signal encoded therein where the identifying signal being subject to content error. Henning teaches in a fault-tolerant VCR, controller 150 continuously searches the received tele text pages for entries corresponding to preprogrammed VPS codes, and the preprogrammed information for the show is updated to reflect the corrected title (see 460 in fig. 4b). Henning teaches a correct recording is made even though the editor has not corrected incorrect VPS data on the TV program schedule pages. Controller 150 corrects an incoming VPS code according to the schedule if it is not found on TV program schedule pages (see col. 6 line 64-col. 7 line 7).

Henning further teaches a television show "Die Pyramide" is recorded at 2050 properly even though VPS schedule page contains incorrect VPS time code. Henning teaches in a conventional VCR nothing will be recorded, however; in Henning's invention controller 150 will replace the VPS code according to the schedule. The television show corresponding to the VPS time code of the current time slot (i.e. 20:50) was preprogrammed for recording, and therefore recording is initiated.

In page 9 Appellant states "Hennig, either singly or in combination with Jackson, fails to teach or suggest the present invention whereby recording will commence at a recording start time which is defined in the claim as being reached at a lead time interval before the broadcast time."

In response the Examiner respectfully disagrees. See the above response regarding defining the recording start time. In addition Hennig discloses recording time-shifted TV programs. The time shifted includes shifting the starting time of a particular program in order to record that program on the actual time. Hennig teaches the actual recording starting time may be changed, i.e. the change is made due to the lead in time interval or the shifted amount.

Appellant states on the last sentence of page 9 of the appeal brief "...the recording start time ABZ is defined in paragraph 0039 as being the time entered during the recording scheduler mode (see fig. 2)."

The conferees could not found the above statement on the cited paragraph and the figure.

Appellant states "the teaching of Jackson referenced above relate to situations occurring at the time of broadcast and have nothing to do with the claimed lead time interval utilized at the time of the scheduling."

In response the Examiner respectfully disagrees. First, in response to Appellant argument that the Jackson reference fails to show the above features of applicant's invention, it is noted that the features upon which applicant relies (i.e., lead time interval utilized at the time of the scheduling) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Jackson teaches a method for controlling an operation of a recording device so as to record a program on time. Jackson discloses the recording process begins when the programming selection is actually aired. Jackson further discloses real-time schedule changes to occur for both starting time and stopping time, and ensure the entire program will be recorded (see col. 5 line 51-col. 6 line 20 and fig. 2). Jackson in fact teaches beginning a recording process when a program aired not necessarily when it was originally scheduled to begin. Hence Jackson teaches recording will commence at a recording start time.

Based on the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/HELEN SHIBRU/

Examiner, Art Unit 2621

August 13, 2008

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